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Hearing Date: August 9, 2000
Commission Action:

APPEAL STAFF REPORT
SUBSTANTIAL ISSUE DETERMINATION
AND DE NOVO HEARING

APPEAL NO.: A-2-SMC-99-066

APPLICANT: David Lee

AGENT: Stan Field

LOCAL GOVERNMENT: San Mateo County

LOCAL DECISION: Approval with Conditions

PROJECT LOCATION: 2070 Cabrillo Highway, in the unincorporated Pescadero area of San Mateo County, APN 089-230-220.

PROJECT DESCRIPTION: Construction of a two-story, 6,500-square-foot single-family residence with attached four-car garage, 600-square-foot detached accessory building, lap pool, pond, gazebo with a spa, and driveway on a legal 84.49-acre lot; plus installation of a septic system and water pipeline.

APPELLANTS: Commissioners Sara Wan and Christina Desser, California Coastal Commission

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

STAFF RECOMMENDATION: Substantial Issue Exists; Denial

TABLE OF CONTENTS

Summary Of Staff Recommendation.....	4
Staff Notes	5
1.0 Staff Recommendation On Substantial Issue	5
2.0 Findings And Declarations	5
2.1 Local Government Action.....	6
2.2 Appellants' Contentions.....	6
2.3 Appeal Process	6
2.4 Filing Of Appeal	7
2.5 Project Location And Site Description	7
2.6 Project Description	9
2.7 Substantial Issue Analysis	10
3.0 Staff Recommendation.....	18
3.1 Findings And Declarations	18
3.2 Project Location And Revised Description.....	19
3.3 Visual Resources.....	19
3.4 California Environmental Quality Act (CEQA)	29

APPENDIX

Appendix A: Substantive File Documents

LIST OF FIGURES

Figure

- 1 Regional Location Map
- 2 Project Site Location
- 3 Assessors Parcel Map
- 4 Plot Plan
- 5 Faults
- 6 Habitat Types
- 7 Site Plan
- 8 First Floor Plan
- 9 Second Floor Plan
- 10 Elevations and Perspectives
- 11 Elevation and Cross-Section Showing House Height
- 12 Park Viewshed
- 13 Alternative Building Site Locations
- 14 Site Plan for Site 2
- 15 Viewshed for Site 2 and Site 4 from Highway 1 and Año Nuevo
- 16 Camera Positions
- 17 Jurisdictional Wetland Delineation
- 18 Site 4 Constraints

LIST OF EXHIBITS

Exhibit

- 1 San Mateo County's Conditions of Approval
- 2 Commission Notification of Appeal

LIST OF CORRESPONDENCE

August 28, 1999	Letter from Ronald Schafer, California Department of Parks and Recreation to San Mateo County Planning Division
September 21, 1999	Letter from Damon DiDonato, Project Planner, San Mateo County to Ronald Schafer, California Department of Parks and Recreation
September 2, 2000	Letter from Lennie Roberts, Committee for Green Foothills to Damon DiDonato, Project Planner, San Mateo County
September 21, 1999	Letter from Damon DiDonato, Project Planner, San Mateo County to Lennie Roberts, Committee for Green Foothills
September 14, 1999	Letter from Brian L. Hinman to Stan Field
September 15, 1999	Letter from Stephanie Jennings and Paul Pfluke
September 16, 1999	Letter from The Bolings to Stan Field
September 20, 1999	Letter from Jon Kosek, to Stan Field
January 2000	Letter from Rosalind Carol
January 9, 2000	Letter from Alan DeMartini to the Coastal Commission
January 10, 2000	Letter from Peter J. Metropulos to the Coastal Commission
January 12, 2000	Letter from Robin Winslow Smith, Sequoia Audubon Society to the Coastal Commission
January 13, 2000	Letter from Rusty Areias, California Department of Parks and Recreation to Peter Douglas, Executive Director, Coastal Commission
January 24, 2000	Letter from Karen Maki to Sara Wan, Coastal Commission
February 1, 2000	Letter from Anna Neal to Sara Wan, Coastal Commission

SUMMARY OF STAFF RECOMMENDATION

SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a de novo hearing, because the appellants have raised a substantial issue with the local government's action and its consistency with the certified LCP.

San Mateo County (the County) approved with conditions a coastal permit for construction of a two-story, 6,500-square-foot single-family residence with attached four-car garage, 600-square-foot detached guest house, lap pool, pond, gazebo with a spa, and driveway, plus installation of a septic system and water pipeline on a legal 84.49-acre lot. The appellants contend that the project is not consistent with the visual resources policies of the County's LCP.

Commission staff analysis indicates that the appeal raises significant questions regarding whether the residence, as approved by the County, would be sited and designed to protect coastal views in the manner required by the policies of the certified LCP. Commission staff recommends that the Commission find that the project, as approved by the County, raises a substantial issue with regard to conformance with the visual resources policies of the County's LCP.

The Motion to adopt the Staff Recommendation of Substantial Issue is found in Section 3.0.

COASTAL PERMIT APPLICATION: DENIAL

The staff recommends that the Commission deny the coastal development permit for the proposed project on the basis that it is inconsistent with the visual resources policies of the County's certified LCP. In addition, staff concludes that to comply with the visual resources policies of the LCP, the project would have to be relocated and significantly redesigned. Thus, the existing project cannot now be conditioned to achieve consistency with the LCP and the applicant should reapply for a relocated, redesigned project. Staff emphasizes, however, that it is feasible to relocate and redesign the house to better comply with the certified LCP.

The Motion to adopt the Staff Recommendation of Denial is found in Section 1.0.

STAFF NOTES

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission will continue with a full public hearing on the merits of the project. If the Commission were to conduct a de novo hearing on the appeal, the applicable test for the Commission to consider would be whether the development is in conformity with the certified LCP.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

PART 1 - SUBSTANTIAL ISSUE

1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

MOTION

I move that the Commission determine that Appeal No. A-2-SMC-99-066 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.

Staff recommends a NO vote. A No vote would result in the de novo consideration by the Commission of the appeal and in the adoption of the following resolution and findings. Approval of the motion would mean that the County permit is final. To pass the motion, a majority vote of Commissioners present is required.

2.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

2.1 Local Government Action

On November 9, 1999, the San Mateo County Planning Commission approved with conditions Coastal Development Permit (CDP) PLN 1999-00296 (Lee) for construction of a two-story, 6,500-square-foot single-family residence and associated development as further described in Section 2.5 below. The approval includes 28 special conditions, as listed in Exhibit 1(San Mateo County 1999b). Conditions 14, 17, and 18 address visual resources. Condition 14 requires the applicant to submit color and material samples for approval by the Planning Director, and that the colors and materials blend in with the surrounding soil and vegetative color of the site. Condition 17 requires that the applicant apply an anti-reflective window coating to the south-western facing windows on all structures. Condition 18 requires the applicant to record a deed restriction on the property regarding maintenance of screening vegetation, color of exterior materials, and minimization of lighting. The local appeal period ended on November 24, 1999 and there were no local appeals.

2.2 Appellants' Contentions

Commissioners Sara Wan and Christina Desser appealed the County of San Mateo's decision to approve the project. The appellants contend that the project is not consistent with the visual resources policies of the County's LCP. The appellants' contentions are summarized below, and the full text of the contentions is also included as Exhibit 2.

The appellants assert that the subject development, which is sited near the top of a hill within the scenic corridor of State Highway 1 and is visible from a State Scenic Road (State Highway 1) and Año Nuevo State Reserve, is inconsistent with San Mateo County Land Use Plan (LUP) visual resources policies 8.5, 8.17c, 8.18b, and 8.20. These policies include requirements that new development:

- be located where it is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints, and is consistent with all other LCP requirements, but preserve the visual and open space qualities overall;
- be controlled “to avoid the need to construct access roads visible from State and County Scenic Roads”;
- be located where screening minimizes the visibility of development from public roads; and
- be related in size and scale to adjacent buildings and landforms.

2.3 Appeal Process

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603.)

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal of a County approval that is not located between the sea and the first public road paralleling the sea are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program.

The project is appealable to the California Coastal Commission because it is not a principally permitted use. A single-family house is not a principally permitted use within the Planned Agricultural District (PAD), in which the project is sited, of San Mateo County's LCP.

2.4 Filing of Appeal

The Commission received the Notice of Final Action for the County's approval of the subject development on December 2, 1999. In accordance with the Commission's regulations, the 10-working-day appeal period ran from December 3 through December 16 (14 CCR Section 13110). The appellants (Commissioners Sara Wan and Christina Desser) submitted their appeal to the Commission office on December 16, 1999 (see Exhibit 2). On January 14, 2000, the Commission opened a hearing on the substantial issue determination for the appeal. The Commission continued the hearing, suspending final action on the appeal pending discussions between the applicant and staff.

2.5 Project Location And Site Description

The project approved by the County is located inland of Highway 1, about ten miles south of Pescadero, in the unincorporated portion of San Mateo County, California (Figure 1). The proposed building site is on the top of a southwest-facing hill overlooking Año Nuevo State Reserve (Figure 2). The Assessor's Parcel Number is 089-230-220 as shown on Figure 3. The property is rectangular, approximately 1,000 feet in width along the front and rear property lines and 3,000 feet in length along the side property lines.

The property is designated in the County's LUP as Agriculture and is zoned Planned Agricultural District (PAD). The proposed single-family dwelling complies with the PAD zoning of the lands within the coastal zone, which allows one density credit or one residential unit on the property. The PAD zone allows a maximum building height of 36 feet, which is the proposed height of the Lee house. Setbacks for the PAD require a front yard of 50 feet, side yards of 20 feet, and rear yard of 20 feet. A single-family residence

is not allowable as a principally permitted structure within the PAD, but may be allowed with the issuance of a Planned Agricultural Permit. The County determined that the project was in compliance with the substantive criteria for issuance of a Planned Agricultural Permit (Section 6355 of San Mateo County's Zoning Regulations). The substantive criteria address protection of agricultural uses on land in the PAD. The criteria includes minimizing encroachment on land suitable for agricultural use, clustering development, availability of water supply, preventing or minimizing division or conversion of agricultural land, and retention of agricultural land within public recreation facilities.

The elevation of the parcel ranges from approximately 160 feet above mean sea level (msl) along Highway 1 in the western portion of the parcel and 390 feet above msl in the eastern portion of the site along the boundary with Santa Cruz County. The property has flat to gradual slopes of approximately 10 percent on most of the parcel with a gradual uphill grade to the east, and steeper slopes of approximately 25 percent along a ravine that crosses the lot (see Figure 4). The proposed building site is on a flat terrace between 380 and 390 feet above msl.

The parcel is within the central region of the Coast Ranges Geomorphic Province, and is underlain by marine and continental sedimentary rock units that have been deposited, folded, faulted, and uplifted to form the Santa Cruz Mountains (Romig Consulting Engineers 1999). The active San Gregorio Fault crosses the parcel and lies parallel to and approximately 800 feet from Highway 1. The Alquist-Priola Special Studies Zone boundary extends approximately 250 feet south of the fault and approximately 600 feet north of the fault (Figure 5). The parcel is within an active seismic area and may be subject to strong ground shaking. The site also is located within an ancient landslide complex approximately 4,000 feet in length and 1,500 feet in width. Romig Consulting Engineers (1999) did not observe any indications of any recent activity of the slide, and concluded that the landslide movement has ceased, and would be unlikely to recur. The potential for liquefaction at the site is low (Romig Consulting Engineers 1999). The Commission's staff geologist has reviewed the Romig report and concurs with these conclusions.

Soils at the site are primarily Santa Lucia loam, with Lockwood loam soils in the western portion of the parcel between Highway 1 and the pond, and Dublin clay soils in the ravine. Most of the Santa Lucia soils pose slight to moderate erosion potential, with those in the southeastern portion of the lot posing moderate to high erosion potential. The erosion hazard of the Lockwood and Dublin soils is slight (US Department of Agriculture 1961). The 14 acres in which the Lockwood soils are found are considered prime agricultural soils.

The parcel includes diverse habitat types (Figure 6). Currently, a majority of the property is annual grassland with scattered shrubs and tree saplings due to earlier use of the site for agricultural activities. Riparian wetland, pond, and coastal scrub vegetation are found in the depressions. Eucalyptus forest borders the northern and eastern property boundaries

and mixed stands of Monterey pine and Douglas fir border the southern boundary. These habitats support many plant and wildlife species, including some special status species. One California red-legged frog, a federally-listed threatened species, was observed in the pond on the western portion of the property. A yellow warbler, a California Species of Special Concern, was also observed in the willows adjacent to the pond (Thomas Reid Associates 1999). Monarch butterflies, which are included in California Department of Fish and Game's Special Animals list, have been recorded within the Monterey pine grove just off the southeastern edge of the property. The eucalyptus and Monterey Pine woodland on the property provide potential roosting habitat for this species. The native Monterey pine, itself, is listed as a federal species of concern and a California Native Plant Society's List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"). The native range for Monterey pine is limited to the stands near Año Nuevo, including the one bordering the parcel, and three other isolated locations. The Año Nuevo stands are the northernmost extent of the native Monterey pine forests. These pines not only have a limited distribution but also are threatened by a fungus, pitch canker. The Año Nuevo stand, estimated to have once covered about 18,000 acres, has been reduced to approximately 1,500 to 2,000 acres (Staub, personal communication).

An archaeological survey of the northeastern portion of the parcel and along a proposed water pipeline was conducted by a professional archaeologist in June and July of 1999, as recommended by the California Historical Resources Information Center at Sonoma State University. No prehistoric cultural materials or historic materials were found. Two locations for trenching could not be surveyed because of dense vegetation, and the consultant recommended that a professional archaeologist be present to monitor the unsurveyed areas when excavation begins (San Mateo County 1999a).

2.6 Project Description

The project approved by the County consists of construction of a two-story, 6,500-square-foot single-family residence with attached four-car garage, 600-square-foot detached guest house, lap pool, pond, gazebo with a spa, and driveway, plus installation of a septic system and water pipeline on a legal 84.49-acre lot (Figures 7 through 10: first and second floor plans). The County-approved garage, utilities, lap pool, gazebo, patios, and decks, which comprise an additional 7,990 square feet of floor space, are not included in the 6,500 square feet of living space. The approved pond, walkway, and cultivated garden comprise another 18,500 square feet of developed area. Therefore, the gross square footage of developed area is 33,090, not including the driveway of 9,600 square feet, including two-foot shoulders. The table below presents each aspect of the proposed project and the associated square feet.

Table 1. Area of Proposed Residence and Associated Appurtenances

Residence and Appurtenances	Square Feet
Ground floor	5,000
Second floor	1,500
Accessory building	600
Garage	1,500
Utilities	800
Pool	160
Gazebo	250
Patios	4,500
Decks	780
Pond	7,500
Walkway	1,000
Cultivated garden	10,000
TOTAL	33,590

Source: Field 2000a.

At its highest elevation from natural grade, the house would be approximately 36 feet in height (Figure 11). A water line and septic system are proposed on-site, and an existing well¹ would be used. Access to the site is provided by an existing private access road from Highway 1 that serves several properties on the hill. A driveway would be extended from the shared road to the proposed house. The approved residence, guesthouse, and gazebo have redwood siding and dark gray roofing materials and are of a modern design.

2.7 Substantial Issue Analysis

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

The two contentions raised in the appeal present potentially valid grounds for appeal in that they allege the projects' inconsistency with policies of the certified LCP.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

¹ An application to drill an agricultural well on the parcel was filed on July 1997 (File No. CDP 97-0015). A well permit was issued from County Environmental Health Division (Permit Number 13016) in November 1997. The well was certified at 15 gallons per minute. In May 1998 the County approved an application to convert the agricultural well to a domestic well (File No. CDP 97-0071).

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

2.7.1 Allegations that Raise Substantial Issue

<p>The Commission finds that the appeal raises a <u>substantial issue</u> with respect to conformance of the approved project with the visual and scenic resource policies of the San Mateo County certified LCP.</p>
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The appellants assert that the subject development, which is sited near the top of a hill within the scenic corridor of State Highway 1 and is visible from a State Scenic Road (State Highway 1) and Año Nuevo State Reserve, is inconsistent with San Mateo County LUP visual resources policies 8.5, 8.17c, 8.18b, and 8.20. These policies are presented below.

The development site approved by the County is on the top of a southwest-facing hillside east of Highway 1, in the unincorporated Pescadero area of San Mateo County. This portion of the coast is very sparsely developed, with grazing and row crops occurring on the coastal shelf surrounded by forested lands. The coastal mountains provide a dramatic backdrop to the coastline, rising to elevations of about 1,450 feet. The mountains have dense stands of conifers and shrubs in the drainages and on the upper slopes, but are otherwise covered with grasses that are green in the winter and spring and a golden color in the summer. It is one of the most spectacular, scenic coastal areas in San Mateo County. The California Department of Parks and Recreation's brochure for Año Nuevo State Reserve describes the reserve and vicinity as follows:

Fifty-five miles south of San Francisco and the Golden Gate, a low, rocky, windswept point juts out into the Pacific Ocean. The Spanish maritime explorer Sebastian Vizcaino named it for the day on which he sighted it in 1603 - Punta de Año Nuevo - New Year's Point.

Today, the point remains much as Vizcaino saw it from his passing ship - lonely, undeveloped, wild. Elephant seals, sea lions, and other marine mammals come ashore to rest, mate, and give birth in the sand dunes or on the beaches and offshore islands. It is a unique and unforgettable natural spectacle that hundreds of thousands of people come to witness each year.[Emphasis added]

There are very few structures visible from Highway 1 and the State Reserve within approximately ten miles of the site. The two closest developments that are visible from Highway 1 are farm buildings relatively near the highway. The buildings associated with the berry farm to the south are screened by topography and vegetation so that mostly just the rooftops are visible. The buildings to the north are mostly farm buildings that are very different from the proposed development. The 6,000 square-foot Boling residence is inland (to the southeast) of Lee at APN 057-061-17 on 14 acres. The Boling house is located within the view corridor of the Highway, but its visibility is tempered somewhat by its greater inland distance and relatively narrower view corridor between the house and the highway as compared to the proposed Lee house. In fact, the existence of this Boling house helps to provide a benchmark for understanding the potential for adverse impact from such large residential development within this critical viewshed area. The most prominent structure visible from within the Park is the Año Nuevo visitors center itself. However, the visitors center approximates a large agricultural barn and is compatible with the overall Park ethic. Therefore, the Lee house would be the first very large residence not associated with agriculture in the immediate area that would be **readily** visible from the highway, and would be visible from distance views at Año Nuevo State Reserve.

The parcel ranges in elevation from approximately 160 to 390 feet above mean sea level (msl). The proposed building site is located on a flat grassland terrace between 380 and 390 feet above msl. Much of the property is located within the Highway 1 and Año Nuevo State Reserve viewshed, with one of the most prominent locations being the top of the hill upon which the proposed development would be located.

In its County-approved location on top of the hill, and given its large size and two-story height, the approved development would be visible to vehicles traveling south and north on Highway 1. The viewshed of the proposed project site is presented in Figure 12. The house extends 256 feet across facing Highway 1 and Año Nuevo State Reserve, while the depth of the house is 36 feet at its widest.

The approved house site would also be visible from trails in Año Nuevo State Reserve. State Reserves are the highest level of protection classification of the California State Park System. The Public Resources Code describes State Reserves as “consisting of areas of embracing outstanding natural and scenic characteristics of statewide significance” (California Department of Parks and Recreation 2000). In addition, Año Nuevo Point is designated as a National Natural Scenic Landmark. Año Nuevo State Reserve currently is visited by over 200,000 people from around the world annually with more expected in the future (California Department of Parks and Recreation 2000, Enge 1999). Visitors to the Reserve come to see the thousands of elephant seals that breed there as well as to enjoy pristine coastal views looking inland that are not possible from many locations along the coast (Enge 1999). The proposed site is visible from numerous locations on the main public trail in the Reserve. It is also visible from the Outdoor Education road/trail coming in from Año Nuevo point and from the dunes near the Wildlife Protection Area Trail. According to California Department of Parks and Recreation, from the Reserve “visitors view pristine coastal mountains with no current intrusive visual impacts” (California Department of Parks and Recreation 2000).

As discussed further below, the Commission finds that the project as approved by the County raises a substantial issue with regard to consistency with a number of LCP policies regarding protection of visual and scenic resources.

LUP Policy 8.5: Development Where Visible from a Scenic Road and Public Viewpoint When Alternatives Exist

A substantial issue exists concerning the conformity of the proposed development with LUP Policy 8.5, which states:

Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.

Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.

The proposed single-family home is sited at the highest point of the property affording panoramic views of the coast. As sited at this location on the property, the proposed

development would be highly visible from Highway 1, which is a state scenic road, and from Año Nuevo State Reserve. The property, which comprises 84.48 acres, includes two intermediate ridge lines and existing, mature trees and other vegetation that block views of some portions of the property from the highway and the reserve. Consequently, it appears that the property contains potential alternative building sites that are less visible from the highway and reserve. The findings for the County's approval of the project include an analysis of one potential alternative site, stating:

The proposed development would be less visible if it were constructed on the steep slopes of a vegetated drainage ravine, 450 feet west of the proposed location. However, construction in the ravine presents a conflict between LCP Sensitive Habitat Policies and LCP Visual Resource Policies, as the ravine has been identified in the Biological Report as a potential habitat for the Monarch butterfly, and the California red-legged frog. Staff believes that development in the proposed location best resolves the conflict between the sensitive habitat and visual resource policies of the LCP, because on the balance, it most protects significant coastal resources on the parcel.

The Commission finds that the appeal raises substantial issues of conformity of the approved project with LUP Policy 8.5 concerning siting of the development because the County only considered one alternative site when other potentially less visible alternatives exist.

In addition to the alternative site considered by the County, the 84.48-acre lot contains other potential alternative building sites that would be less visible from the highway and the reserve. In fact, as further discussed in section 3.3.3, for purposes of any de novo consideration of the project by the Commission, the applicant has re-sited the development approximately 215 feet to the south of the site approved by the County to better screen the structures behind existing trees. In addition, the County did not consider the feasibility of locating the development lower on the property behind the first (westernmost) intermediate ridge. Based on a Commission staff site visit, it appears that development sited at this location would be less visible than the approved project. Because potential less visible alternative building sites on the property were not considered, the County's findings that the development is least visible from State and County Scenic Roads and is least likely to significantly impact views from public viewpoints as required by LUP Policy 8.5, is not supported by the evidence in the record.

Contrary to the conclusion reached by the County, with appropriate design and mitigation measures, locating the development on the slope above the ravine is a potentially less environmentally damaging feasible alternative. As further discussed in section 3.3.3, development located on the slope above the ravine would be approximately 1,080 feet from the pond on the lower portion of the site that provides aquatic habitat for the federally threatened California red-legged-frog. Typically, the USFWS requires a maximum buffer of 300 feet to protect aquatic habitat of the California red-legged frog. Thus, the alternative building site would be more than three times the required distance from the pond. Groundwater seeps drain into the ravine during the wetter times of the year. As such, the ravine may be characterized as either an intermittent stream or a

wetland. LUP Policy 7.11 establishes a 30-foot buffer around intermittent streams and a 100-foot buffer from wetlands. Even assuming the large footprint and sprawling design of the project as approved by the County, development at this alternative location would be 175 feet up-slope from the ravine. Thus, whether the ravine is considered a riparian corridor or a wetland, an adequate buffer in accordance with the LCP standards would exist to allow development at this location. An alternative design with a smaller footprint would allow for an even larger buffer. As discussed further in Section 3.3.3 of this report, additional biotic investigations would need to be undertaken to determine whether or not this and any other alternative sites are native Monterey Pine forest habitat.

The County also rejected the alternative building site on the basis that the biological report identifies the ravine as a potential habitat for Monarch butterflies. The Monarch butterfly is included in the California Department of Fish and Game's Special Animals List. In accordance with this listing, the Monarch population is "demonstrably secure" and commonly found throughout its historic range. No special protection is provided under the LCP for Monarch habitat. The biological report for the project states with respect to the butterfly that:

This species has been recorded within the Monterey pine grove just off the southeastern edge of the property. The eucalyptus and Monterey pine woodland on the property provides potential roosting habitat for this species.

Thus, the only documentation of the presence of the butterfly discussed in the biological report is not on the subject property. The report concludes that this is evidence of potential habitat for the butterfly on the project site. Contrary to the County's findings, the biological report does not state that the ravine specifically provides potential habitat for the butterfly, but that "the eucalyptus and Monterey pine woodland on the property provides potential roosting habitat for this species." Assuming the large, sprawling footprint of the development as designed, the alternative site on the slope above the ravine would locate the development approximately 100 feet of existing Monterey pines on the southern border of the property. The building location approved by the County is within approximately 150 feet of existing eucalyptus along the eastern border of the property. The record for the County's approval of the project contains no evidence demonstrating that siting the development within 100 feet of potential Monarch habitat in the Monterey pines at this alternative site near the southern property boundary would adversely impact the butterfly or its habitat. Thus, the County's finding that the alternative building site on the slope above the ravine would be inconsistent with the LCP policies concerning protection of sensitive habitat because of impacts to Monarch butterfly habitat is not supported by the factual evidence in the record.

Because the County's determination that the approved development would be located on the portion of the property that is least visible lacks factual support, the Commission finds that the appeal raises a substantial issue in terms of the approved project's conformance with LCP Policy 8.5.

LUP Policy 8.18: Project Not Designed to be Subordinate to the Environment or to Minimize the Visibility of Development from Scenic Roads and Other Public Viewpoints

LUP Policy 8.18b states:

Require screening to minimize the visibility of development from scenic roads and other public viewpoints. Screening shall be by vegetation or other materials which are native to the area or blend with the natural environment and character of the site.

Existing vegetation and landforms would not screen the development as approved by the County. The County's conditions require that landscaping be designed to screen 50 percent of the structures from Highway 1 and trails in Año Nuevo State Reserve. The project as approved would screen only 15 to 20 percent of the development initially, and would require many years of landscaping growth before a maximum of 50 percent screening would be achieved, thus failing to meet the requirement for minimizing visibility. In fact, for purposes of the de novo review the applicant proposes additional vegetation along the lower southeasterly ridge of the property to screen views of the house from Highway 1. The Commission finds that a substantial issue exists concerning the conformity of the County-approved development with LUP Policy 8.18b because in its prominent location at the top of a hill fronted by a field in a virtually undeveloped scenic area, additional screening could be added to minimize the visibility of the development from Highway 1 and Año Nuevo State Reserve.

LUP Policy 8.20: Structure Does Not Relate in Size and Scale to Adjacent Buildings or Landforms

LUP Policy 8.20 states:

Relate structures in size and scale to adjacent buildings and landforms.

Policy 8.20 requires development to be related in size and scale to adjacent buildings and landforms. There are very few structures visible from Highway 1 and the State Reserve within approximately ten miles of the site. The two closest are farm buildings relatively near the highway. The buildings associated with the berry farm to the south are screened by topography and vegetation so that mostly just the rooftops are visible. The buildings to the north are mostly farm buildings that are very different from the proposed development. Structures visible from Año Nuevo include a lumber operation, a cement plant, and the Boling residence. The Boling house (southeast of the proposed Lee house) is also greater than 6,000 square feet and located within the view corridor of the Highway, but its visibility is tempered somewhat by its greater inland distance and relatively narrower view corridor between the house and the highway as compared to the proposed Lee house. In fact, the existence of this Boling house helps to provide a benchmark for understanding the potential for adverse impacts from such large residential development within this critical viewshed area. Therefore, the Lee house would be the first very large residence not associated with agriculture in the immediate area that would be **readily** visible from the highway. Approval of this development could prejudice the County's ability to apply LUP policy 8.20 in the future. Thus, the

Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LUP Policy 8.20.

2.7.2 Allegation that Does Not Raise Substantial Issue

LUP Policy 8.17: Avoiding Construction of Access Roads Visible from State and County Scenic Roads

LUP Policy 8.17 states:

Control development to avoid the need to construct access roads visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

The project as approved by the County includes a 600-foot-long, 12-foot-wide driveway with two-foot shoulders to access a shared road at the property line. Most of the driveway would be hidden behind the house or behind trees. Therefore, the Commission finds that the project does not raise a substantial issue with regard to conformance with LUP Policy 8.17.

2.7.3 Conclusion

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved project with the visual and scenic resource policies of the San Mateo County certified LCP.

PART 2 - DE NOVO ACTION ON APPEAL

PROCEDURE

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application.

INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS

The Commission hereby incorporates by reference the Substantial Issue Findings above as if set forth in full.

3.0 STAFF RECOMMENDATION

MOTION

I move that the Commission approve Coastal Development Permit Application No. A-2-SMC-99-066.

STAFF RECOMMENDATION OF DENIAL

Staff recommends a "No" vote, resulting in adoption of the following resolution and findings. To pass the motion requires an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY THE PERMIT

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of the County of San Mateo certified Local Coastal Program. Granting of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

3.1 Findings and Declarations

The Commission hereby finds and declares as follows:

3.2 Project Location and Revised Description

As noted in the Project Location and Site Description section of the Substantial Issue portion of this report (which is hereby incorporated by reference), the project site is located inland of Highway 1, in the unincorporated Pescadero area of San Mateo County near the top of a southwest-facing hill overlooking Año Nuevo State Reserve.

The proposed project consists of construction of a two-story, single-family residence and other improvements. Staff notes that since the project was initially approved by San Mateo County and appealed to the Commission, the applicant has made changes to the project. The applicant was advised through the appeal notice and during numerous meetings with Coastal Commission staff that one of the primary objectives in making the project consistent with the LCP would be to site it in the least visible location on the 84.48-acre parcel. In response to this and other scenic resources policies the applicant revised his proposed project and reviewed alternative sites (see Figure 13) suggested by the Coastal Commission staff. For instance, the primary building mass has been moved 215 feet to the southeast and the plan of development has been flipped so that the accessory building (formerly referred to as guest house) would be moved from the north side to the south side (Site 2) as described in Alternatives Analysis Section. The house still would be located at the top of the property at approximately 380 to 390 feet above msl. The applicant has also revised the project to plant a row of Monterey cypresses on the lower southeasterly ridge of the property to partially screen the development from Highway 1. There is no specific planting plan and the size of the plantings when installed has not been determined, but some possibilities are described in the arborist's report (Fong 2000a). Under ideal or good growing conditions the cypress would grow approximately 3.5 feet per year (Fong 2000a). An e-mail message sent to staff on July 20, 2000 indicated that: (1) "the entire building pad will be lowered by 10' from its original level. (This means that the roof elevation will be 10' lower than the original roof level as well);" and (2) "the ground level on the upslope will be gradually sloped to natural grade and the downslope is yet to be determined." (Field 2000b). However, no revised plans have been provided showing this change to the project or the grading that would be required. The applicant recalculated the ground floor area to be 4,500 square feet, which means that the residence is 6,000 square feet rather than 6,500 square feet (Field 2000a).

3.3 Visual Resources

<p>The Commission denies the permit application because the proposed development does not conform to the LCP policies concerning the protection of the scenic qualities of the hills visible from a scenic highway and public viewpoint.</p>

3.3.1 Issue Summary

There are three primary reasons why the proposed development, which would be visible from Highway 1 and Año Nuevo State Reserve, conflicts with LCP visual resources policies 8.5, 8.18. and 8.20:

- **The development is not sited in the least visible location on a large parcel;**
- **The development is not designed and sited to be as unobtrusive as possible; and**
- **The development does not relate in size and shape to adjacent buildings or landforms.**

Highway 1 is a State Scenic Road and Año Nuevo State Reserve is designated as a reserve because of its “outstanding natural and scenic characteristics.” The Lee property, which comprises 84.48 acres, includes two intermediate ridge lines and existing, mature trees and other vegetation that block views of some portions of the property from the highway and the reserve. Consequently, the property contains feasible alternative building sites. The large, two-story, sprawling design of the project does not conform with the requirement that the development in scenic areas shall be as unobtrusive as possible through design, siting, layout, size, height, and shape. The house is 256 feet across facing Highway 1 and Año Nuevo State Reserve, while the depth of the house is 36 feet at its widest. The 256 feet includes 93 feet between the main house and the accessory building that has no solid walls, just seven columns that are approximately two-thirds the height of the house. This area includes a below-ground garage and an open colonnade. The surrounding area is agricultural in character and very sparsely developed. The closest visible developments are farmhouses and associated structures that are located at the base of hills.

3.3.2 Standard of Review

The proposed project is within the California coastal zone of San Mateo County, and the County has a certified Local Coastal Program (LCP). Section 30604(b) of the Coastal Act states that after certification of an LCP, a coastal development permit shall be issued if the issuing agency or the Commission on appeal finds that the proposed development is in conformity with the certified LCP. Accordingly, the standard of review for the proposed project is the San Mateo County LCP.

The proposed development is inconsistent with LUP Policies 8.5 and 8.18, which states that new development should be located where it is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints, and is consistent with all other LCP requirements, but preserves the visual and open space qualities overall. The applicable full text of these LCP policies is contained in Section 2.7.1 of this report. Policy 8.18a of the LUP is also applicable and states:

- a. *Require that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping. The colors of exterior materials shall harmonize with the predominant earth and vegetative colors of the site. Materials and colors shall absorb light and minimize reflection. Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed and shielded so as to confine direct rays to the parcel where the lighting is located.*

Except for the requirement to minimize reflection, agricultural development shall be exempt from this provision. Greenhouse development shall be designed to minimize visual obtrusiveness and avoid detracting from the natural characteristics of the site.

3.3.3 Discussion

Alternatives Analysis

In response to the Commission's appeal and to address LUP Policy 8.5, the applicant conducted an alternatives siting analysis. The locations of the alternative sites considered by the applicant are shown in Figure 13. The County-approved site discussed in the Substantial Issue portion of this report is referred to as Site 1. The applicant has indicated that Site 2 is the proposed project for purposes of the De Novo review (Lee 2000). Site 2 is 215 feet to the southeast to the south of Site 1 (Figure 14). Site 3 is located to the immediate southeast of Site 2. Site 3 would locate the development in the southeast corner of the parcel, where it would be more effectively screened by existing mature Monterey pine forest. However, this site is directly adjacent to an existing Monterey pine forest and contains a large number of Monterey pine saplings. The site appears to be suitable for regeneration of Monterey pine forest. As further discussed below, Monterey pine forest meets the definition of environmentally sensitive habitat under the LCP.

Development at Site 3 would require removal of Monterey pine saplings and may reduce the area on the site available for regeneration of Monterey pine forest. Of the alternatives presented, Site 4 appears to be the least visible alternative. Site 4 is located on the southeast side of the property above the ravine. Site 5 is located on the north side of the property. The applicant's analysis rejects Site 5 because it is more visually prominent than Sites 2 (Boyd 2000). An additional, potentially less-visible, site was recently suggested by Commission staff behind the first ridge on the southeast side of the parcel approximately 1,650 feet from Highway 1, and other sites may also be considered. The viewshed from Highway 1 and Año Nuevo to Sites 2 and 4 is shown in Figure 15.

After the appeal was filed the applicant provided visual simulations of the project from six locations along Highway 1 and from four locations in Año Nuevo State Reserve (Figure 16). These simulations show the development at the five sites, although not all of the sites are shown from all of the camera angles. Site 4 is shown from camera positions B and D only because it is not visible from the other camera angles. In addition, it appears from the simulation for Site 4 that the development would not be visible from camera position D at Año Nuevo State Reserve. The proposed development at Site 4 would be visible from only one of the camera positions and Site 2 would be visible from all of the camera positions. Therefore, placing the development at Site 4 would make it far less visible than at Site 2. In addition, the simulations for Sites 1 and 2 were guided by the story poles placed at the site, while the others did not benefit from that level of accuracy.

The applicant has provided analysis of the project impacts and constraints related to the proposed site (Site 2) as well as alternative sites. Additional analyses included a biological assessments (Thomas Reid Associates 2000a and 2000c), wetland delineation (Thomas Reid Associates 2000b), geotechnical review (Romig Consulting Engineers 2000a and 2000b), arborist's analysis

(Fong 2000a and 2000b), assessment of Monterey pines by a forester (Staub 2000), and analysis of LCP consistency (Boyd 2000).

The applicant contends that the proposed building site (Site 2) minimizes impacts on biological resources. Site 2 would be approximately 1,700 feet from a pond, which supports red-legged frogs, and 400 feet from a ravine, which the applicant has indicated may provide a dispersal corridor for the red-legged frogs (Thomas Reid Associates 2000a).

Site 4 would be approximately 1,080 feet from the pond and 175 feet from the ravine mentioned above. The applicant contends that it would not be possible to “place a homesite on the Site 4 slope and both respect the 100-foot wetlands buffer and a 75-foot setback from the existing Monterey pines” (Boyd 2000). A biologist for the applicant conducted a preliminary wetland assessment and identified four wetland areas (Thomas Reid Associates 2000a) as well as a jurisdictional wetland delineation (Thomas Reid Associates 2000b), as shown in Figure 17. According to a constraints map of Site 4 prepared by the applicant’s geotechnical engineers, the house would be within the 100-foot buffer of a wetland and 75 feet of the Monterey pines (Figure 18).

The applicant has identified buffers around the Monterey pine forest and concludes that locating the development at Site 4 would impinge on this buffer. The applicant’s agent states that “it would be impossible to construct the home without impacting the root zones and groundwater vital to the Monterey pines” (Boyd 2000). The forester hired by the applicants evaluated the Monterey pine forest and trees to recommend measures to conserve the site’s native Monterey pine resources. Monterey pines are susceptible to a fungal disease, pine pitch canker. The forester observed pitch canker effects in the mature forest on the Lee property to be 11 percent in the high or dead class, 30 percent in the moderate effects class, and 59 percent in the low or no effects class. He observed 400 seedlings and saplings, 23 percent of which were healthy saplings, 42 percent of which were healthy seedlings and 35 percent of which were seedlings or saplings with pitch canker infections or had died recently. He concluded that to protect the natural regeneration of the Monterey pine populations, development should be 80 to 115 feet from the exiting mature forest perimeter (Staub 2000). In addition, the applicant states that Site 4 would need to be located 75 feet from Monterey pines for safety reasons: out of reach if they topple and to reduce fire hazards (Fong 2000b; Boyd 2000).

In addition, the Monterey pine forest and blue-gum eucalyptus stands may provide temporary roosting habitat for monarchs. One Monarch butterfly was observed in the willows at the entrance to the property near Highway 1 (Dayton 2000). Site 2 is 2,750 feet from where the butterfly was seen. Monarchs were also observed in eucalyptus trees on the northern boundary of the site (Thomas Reid Associates 2000a), which is approximately 700 feet from Site 2. Site 2 is approximately 100 feet from the closest eucalyptus stand and 100 feet from the Monterey pine forest. Monarchs typically leave the area in February and early March and their populations were low during the winter of 2000, and therefore may be present in greater abundance earlier in the season (Dayton 2000). A biologist for the applicant noted that “...it is very unusual to find monarch populations in areas open to wind. Thus, although the trees that border the project site

have some potential as monarch roost habitat, it seems unlikely that they would be utilized during periods when winds are from the south or west” (Dayton 2000).

Site 4 is 2,400 feet from where the butterfly was seen in the willows near the entrance and approximately 100 feet from the Monterey pine forest. The eucalyptus trees on the northern boundary of the site where Monarchs were seen (Thomas Reid Associates 2000a) is approximately 1,000 feet from Site 4.

The applicant contends that Site 2 is the optimum site from a geologic and geotechnical engineering viewpoint (Thomas Reid Associates 2000a; Romig Consulting Engineers 2000a and 2000b). The San Gregorio fault is approximately 1,400 feet to the west of Site 2.

The applicant contends that Site 4 would not be feasible or would be inconsistent with LCP policies regarding geologic hazards. Site 4 is approximately 1,100 from the fault. The applicant’s geotechnical engineers noted that soil slumping and shallow landsliding are actively occurring in the colluvial soils at Site 4. Grading and earthwork required to site the proposed house design at Site 4 would result in fill slopes as high as 40 feet to accommodate the house pad (Romig Consulting Engineers 2000b). Fills would have to be properly keyed and benched into the weathered rock below the hillside and the fills would have to be kept dry. A letter from the geotechnical engineers indicates that the subdrainage needed to build the fills could dewater the soils contributing ground water to the wetland areas. The letter also states that due to the fills and grading, erosion would occur, especially in the first few years after construction (Romig Consulting Engineers 2000b).

However, the Commission finds that, contrary to LUP policies 8.5 and 8.18, the applicant’s analysis fails to demonstrate that the proposed development at Site 2 is located where it is least visible from State and County Scenic Roads and least likely to significantly impact views from public viewpoints. Site 4 would be one of the least visible sites from Highway 1 and from Año Nuevo State Reserve. It would be screened by topography as well as existing vegetation. Site 4 is behind a hillside ridge that is densely vegetated with conifers. It is approximately 500 feet southwest of Site 2.

As explained in the Substantial Issue section, with appropriate design and mitigation measures locating the development on the slope above the ravine would also be consistent with all other applicable policies because it would not directly affect existing sensitive habitat areas. Site 4 would not be significantly closer to the pond than Site 2 and is not expected to significantly affect red-legged frogs. Typically, the USFWS requires a 300-foot buffer to protect aquatic habitat of the California red-legged frog, and Site 4 would be more than three times that distance from the pond, as compared to Site 2, which is more than five times that distance. According to the Biological Impact Report for the project (Thomas Reid Associates 1999):

California red-legged frogs have been shown to disperse up to ½ mile away from breeding habitat locations and to aestivate in rodent burrows within upland habitats during late summer when pools have dried up.

Therefore, California red-legged frogs disperse in upland areas and the entire site rather than just the ravine may provide dispersal habitat during the non-breeding season. Dispersal habitat greater than the 300-foot buffer around aquatic habitat is not typically protected from development by the USFWS.

The ravine may be characterized as an intermittent stream or wetland, and as such would be protected by a 30-foot or 100-foot buffer, respectively, under LCP Policy 7.11. Because Site 4 is approximately 175 feet from the ravine and may be sited, oriented, and designed to avoid the buffer around the wetlands associated with a seep uphill of the ravine, an adequate buffer exists in accordance with LCP standards to allow development at this site.

The native Monterey pine is listed as a federal species of concern and a California Native Plant Society's List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"). Although temporarily withdrawn in December 1999 to allow CDFG to respond to the volume of information submitted, the California Native Plant Society submitted a petition in August 1999 to list Monterey pine as a Threatened Species under the California Endangered Species Act. The native range for Monterey pine is limited to the stands near Año Nuevo, including the one bordering the parcel, and three other isolated locations. The Año Nuevo stands are the northernmost extent of the native Monterey pine forests. These pines not only have a limited distribution but also are threatened by a fungus, pitch canker. Section 7.48 of the San Mateo County LUP identifies Monterey pine as a unique species, but does not identify any associated buffers. Section 7.1 of the LUP defines sensitive habitats and states that "Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species." Therefore, the Monterey pine forest can be considered an environmentally sensitive habitat area pursuant to Section 7.1 of the LCP. As such, any development that would have an adverse impact on Monterey pine forest would be subject to applicable sensitive habitat policies.

Residential development would not be consistent with LCP policy 7.44, which identifies resource dependent uses that may be permitted in sensitive habitats with unique species, as cited below:

Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

No pines would be cut in locating the development at Site 4, and a more compact design would even keep it away from the buffers recommended by the forester. It should be noted that the accessory building at Site 2 is approximately 100 feet from the mature Monterey pines and within the area with some of the Monterey pine saplings. Therefore, the 84.48-acre site provides locations where impacts to the mature native Monterey pines can be avoided. However, additional analysis would be required to determine precisely where the areas of natural regeneration of the Monterey pine forest is occurring or could potentially occur, and how to minimize impacts to this sensitive habitat. More specific information of the three critical factors

to this habitat (soil type, fog/weather patterns, proximity to the coast), as well as identifying the current extent of sapling growth, and the pre-agricultural extent of the pine forest in this area is needed to determine the extent of this ESHA on this site. Accordingly, any re-application for a new development on this site should include this assessment.

Additionally, monarch butterfly habitat can be avoided by siting development outside the eucalyptus groves and Monterey pine forests. There is no evidence to demonstrate that locating development at Site 2 or Site 4 would impact monarchs. Therefore, with respect to potential monarch butterfly habitat, locating the development at Site 4 does not conflict with the LCP.

Finally, the increase in fault hazard associated with Site 4, although not assessed directly by a fault hazard study, is not likely to be appreciably greater than at Site 2. Landslide hazard also has not been quantitatively assessed, but is likely to be limited to small surficial slumps (Johnsson 2000). Grading, drainage, and septic system issues raised by the applicant's engineers (Romig Consulting Engineers 2000a and 2000b) are relatively minor and easily mitigated (Johnsson 2000). Grading could be minimized with a smaller, more compact development footprint and/or a design that is built in levels into the hillside. Water from the drainage system of the graded area could be directed to the wetlands to ensure these areas remain moist. With the increased impervious surfaces, adjacent wetlands may, in fact, receive more water. Coastal Commission staff previously indicated to the applicant that a geotechnical report would be necessary to confirm the feasibility of Site 4 (Johnsson 2000), but the applicant has provided a qualitative analysis and not a full geotechnical report. Although the applicant's geotechnical engineers present challenges to developing Site 4, they do not demonstrate that Site 4 cannot be feasibly developed. The Commission's staff geologist concurs that although, purely from a geologic point of view, Site 2 is preferable to any of the alternative sites discussed, the geotechnical problems associated with Site 4 could be mitigated, even for the current design. A smaller, less sprawling design would require less mitigation.

In conclusion, the 84.48-acre parcel offers a less visible siting location than the one proposed by the applicant (Site 2). The applicant has not demonstrated that alternative Site 4 is infeasible. In addition, a smaller footprint and more compact design would further reduce visual as well as biological and geological impacts, and comply with the LCP. Moreover, as discussed below, the Commission finds that, contrary to LUP policies 8.5 and 8.18, the applicant has not demonstrated that the proposed development would be located where it is least visible from State and County scenic roads and least likely to impact views from public viewpoints. Therefore, the proposed development must be denied. As discussed above, to conform with the visual resource protection policies of the LCP, development of the subject property must be sited and designed to minimize visual impacts in this highly scenic area and to be as unobtrusive as possible. The proposed development cannot comply with these requirements without substantial design and siting changes requiring both architectural and engineering work. The Commission does not have the resources to undertake such a comprehensive redesign of the project. Thus, the existing project cannot now be conditioned to achieve consistency with the certified LCP. It is therefore appropriate for the Commission to deny the permit application and the applicant to reapply for a project consistent with all relevant LCP policies.

Visibility of Project from a Scenic Road and Public Viewpoint

The proposed development would be located on the top of a southwest-facing hillside inland of Highway 1, in the unincorporated Pescadero area of San Mateo County. This portion of the coast is very sparsely developed, with grazing and row crops occurring on the coastal shelf. The coastal mountains provide a dramatic backdrop to the coastline, rising to elevations of about 1,450 feet. The mountains have dense stands of conifers and shrubs in the drainages and on the upper slopes, but are otherwise covered with grasses that are green in the winter and spring and a golden color in the summer. It is one of the most spectacular, scenic coastal areas in San Mateo County.

The subject parcel ranges in elevation from approximately 160 to 390 feet above mean sea level (msl). The proposed building site is located on a flat grassland terrace at the highest point of the property. Much of the property is located within the Highway 1 and Año Nuevo State Reserve viewshed, with one of the most prominent locations being the top of the hill upon which the proposed development would be located. In its current planned location on top of the hill, and given its large, sprawling size and two-story height, the proposed development would be exceptionally visible to vehicles traveling south and north on Highway 1. Therefore the project is not consistent with LCP policy 8.5, which mandates that development shall be located on the portion of the property that is least visible.

The proposed house site would be visible from trails in Año Nuevo State Reserve. State Reserves are the highest level of protection classification of the California State Park System. The Public Resources Code describes State Reserves as “consisting of areas of embracing outstanding natural and scenic characteristics of statewide significance” (California Department of Parks and Recreation 2000). In addition, Año Nuevo Point is designated as a National Natural Scenic Landmark. Año Nuevo State Reserve currently is visited by over 200,000 people from around the world annually with more expected in the future (California Department of Parks and Recreation 2000, Enge 1999). Visitors to the Reserve come to see the thousands of elephant seals that breed there as well as to enjoy pristine coastal views looking inland that are not possible from many locations along the coast (Enge 1999). The proposed site is visible from numerous locations on the main public trail in the Reserve. It is also visible from the Outdoor Education road/trail coming in from Año Nuevo point. The point is approximately two miles from the proposed building site and the closest portion of Año Nuevo State Reserve is approximately a half mile from the building site. Although the views from the reserve to the site are somewhat distant, the proposed development represents a significant alteration in the view because no other similar development is visible from these areas. The Lee house would be a large non-agricultural residence visible from the reserve because it is sited at the top of a hill with a large clearing in front of it. With the exception of the Boling house, adjacent residences are associated with farms and are hidden and/or sited at the base of a hill near Highway 1. According to California Department of Parks and Recreation, from the Reserve “visitors view pristine coastal mountains with no current intrusive visual impacts” (California Department of Parks and Recreation 2000).

The proposed development is inconsistent with LUP Policy 8.18 because in its prominent location (Site 2) at the top of a hill fronted by a field in a virtually undeveloped scenic area, the

proposed development would not be sited and designed to protect views from Highway 1 and Año Nuevo State Reserve, would not be visually compatible with the character of surrounding areas, and, in particular, would not be subordinate to the character of its setting.

Policy 8.18a requires development to blend with and be subordinate to the environment and the character of the area and be **unobtrusive as possible** through, but not limited to, **siting, design, layout, size, height, shape**, materials, colors, access, and landscaping. Therefore, not only could a less visible site, like Site 4, be chosen, but also a less visible design, such as a smaller, single-story house built in tiers to conform to the hillside at Site 4. As modified for purposes of the Commission's de novo review, the development would be 26 feet high above finished grade and have a linear design that would present an approximately 256-foot-long façade to the coastal viewshed. A more compact design and one that minimizes the area facing public viewpoints would be more consistent with this policy than the proposed design.

Placing the house at the top of the hillside where there is minimal existing vegetation or topography to screen the house does not subordinate the house to the character of its setting. Although the project as proposed would use colors and non-reflective materials that would attempt to match the shades of the eucalyptus grove behind the structures, and the eucalyptus trees behind it would provide some backdrop; to be truly "subordinate" the house would need to be behind trees, such as the conifers at Site 4, and therefore screened by the trees, rather than sited in front of them. Policy 8.18b requires screening to minimize the visibility of development from scenic roads and other public viewpoints. Existing vegetation and landforms would not screen the development as proposed. Existing trees, such as Monterey pines that are susceptible to pitch canker, may develop diseases that kill or weaken them, revealing structures placed behind them. In addition, the proposed project instead relies on planting screening vegetation (Monterey cypress and shrubs) adjacent to the house as well as along the lower ridge (see Figure 13).

The applicant has asserted that the background stand of eucalyptus trees at the proposed building site will significantly soften the visual impact of the proposed home, if built as proposed. However, softening the visual impact does not mean the appearance will be subordinate to the character of the area as the certified LCP policies require. Because the grass turns from green in the spring to gold or yellow in the summer, one cannot paint the surfaces of the house a single color that would blend in with the grassland year-round. Thus, the house will not be "softened," but will stand out against the hillside at least for some portion of the year, even if it were painted a color that matched perfectly the green shade of the grassland in the spring or the gold color of the grassland in the summer.

As the proposed development would not be sited and designed to protect views from scenic roads and public viewpoints, would not be as unobtrusive as possible, would not be visually compatible with the character of surrounding areas, and, in particular, would not be subordinate to the character of its setting, the Commission finds that the proposed development is inconsistent with LUP policies 8.5 and 8.18. Therefore, the Commission finds that the proposed development must be denied. As discussed above, to conform with the visual resource protection policies of the LCP, development of the subject property must be sited and designed to minimize

visual impacts in this highly scenic area and to be as unobtrusive as possible. The proposed development cannot comply with these requirements without substantial design and siting changes requiring both architectural and engineering work. The Commission does not have the resources to undertake such a comprehensive redesign of the project. Thus, the existing project cannot now be conditioned to achieve consistency with the certified LCP. It is therefore appropriate for the Commission to deny the permit application and the applicant to reapply for a project consistent with all relevant LCP policies.

Structure Does Not Relate in Size and Scale to Adjacent Buildings or Landforms

Policy 8.20 requires development to be related in size and scale to adjacent buildings and landforms. There are very few structures visible from Highway 1 and the State Reserve within approximately ten miles of the site. Residences and other structures that are typical of the south coast of San Mateo County are modest farmhouses, barns, and agricultural outbuildings. The two closest developments that are visible from Highway 1 are farm buildings relatively near the highway. The buildings associated with the berry farm to the south are screened by topography and vegetation so that mostly just the rooftops are visible. The buildings to the north are mostly farm buildings that are very different from the proposed development. There are only a few structures that are within the Año Nuevo viewshed. These include the the RMC Lonestar cement plant in Davenport, Big Creek Lumber operation immediately south of Waddell Creek, and the Boling residence; all of which are on the inland side of Highway 1. These structures are further from Año Nuevo Point than the proposed site of the Lee residence: approximately 10 miles, three miles, and 2.5 miles, respectively. The 6,000 square-foot Boling residence (APN 057-061-17) is southeast of the Lee parcel on 14 acres in Santa Cruz County. The Boling residence would be less visible than the Lee residence from many vantage points because it is in relatively small clearing in a densely forested area. This structure can be seen from Año Nuevo State Reserve because at certain points it is not screened by intervening topography or vegetation and has white trim on the windows. This structure demonstrates how the construction of buildings in Año Nuevo's mostly pristine viewshed can change the experience of the Reserve, particularly if the house is painted with colors that stand out, such as the white window trim. The most prominent structure visible from within the Park is the Año Nuevo visitors center itself. However, the visitors center approximates a large agricultural barn and is compatible with the overall Park ethic. The Lee house would be the first very large residences not associated with agriculture in the area that is readily visible from Highway 1, and would be visible from Año Nuevo State Reserve.

The surrounding area is agricultural in character and very sparsely developed. Two other very large houses are proposed nearby. The Hinman house would be a 14,766 square foot Gothic mansion on a 50-acre parcel just east of the San Mateo County limit, and immediately adjacent to the Lee site. This house also would be seen from Año Nuevo State Reserve, but not from Highway 1. The Hinman project also has been appealed to the Commission because of its visual impacts. The proposed Blank house is 15,000 square feet and proposed to be located approximately 7,000 feet northwest of the proposed location of the Lee house. The CDP application by Steve Blank is being reviewed by San Mateo County.

In conclusion, the proposed modern sprawling development at the top of hill is not consistent in size or design with the mostly undeveloped and agricultural uses that are found along the south coast of San Mateo County. The areas around Año Nuevo, in particular, are undeveloped and unchanged. To be consistent with the south coast's undeveloped character, the proposed development would have to be placed outside the public viewshed. Because it is within the public viewshed and is not similar in size and scale to adjacent buildings and landforms, the project is not compatible with the LCP.

3.4 California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment. The Commission incorporates its findings on Coastal Act policies at this point as if set forth in full. For the reasons described in the Commission findings above, the Commission finds that there are feasible mitigation measures and alternatives that would substantially lessen the significant adverse impacts of the development on the environment. The Commission thus finds that the proposed project cannot be found to be consistent with the requirements of the Coastal Act and does not conform to the requirements of CEQA.

The denial of this particular project does not mean that no single-family residence could be approved on the property. The applicant is free to submit a new application for development that is sited in the least visible location, designed to protect views from public viewpoints, and designed to be subordinate to the character of its setting. As discussed above, to conform with the visual resource protection policies of the LCP, development of the subject property must be sited and designed to minimize visual impacts in this highly scenic area and to be as unobtrusive as possible. The proposed development cannot comply with these requirements without substantial design and siting changes requiring both architectural and engineering work. The Commission does not have the resources to undertake such a comprehensive redesign of the project. Thus, the existing project cannot now be conditioned to achieve consistency with the certified LCP. It is therefore appropriate for the Commission to deny the permit application and the applicant to reapply for a project consistent with all relevant LCP policies.

Appendix A

Substantive File Documents

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Personal Communication

Staub, Stephen R., Registered Professional Forester (License Number 1911), July 24, 2000.